

REMARKS/ARGUMENTS

Claims 1-4, 8, 12, 18 to 23, 28, 34-36, 39-41, and 50-55 have been rejected under 35 U.S.C. § 102(a) as being anticipated by Ng et al., *Protein Crystallization by Capillary Counterdiffusion for Applied Crystallographic Structure Determination*, 142 J. of Structural Biology 218-231 (2003) ("the Ng publication."). Claims 5-7, 9-11, 13-17, 24-27, 29-33, 37, 38, 42-49, and 56-62 have been rejected under 35 U.S.C. § 103(a) as being unpatenable over Ng et al.

As suggested by the Examiner, the Applicants have enclosed the Declaration of Dr. Ng, which establishes that the Ng publication cannot be considered prior art under § 102(a), and that Greg Jenkins and Mark Wells are coinventors of subject matter described and claimed in the '499 Application. Dr. Ng is a coinventor of the present application and is also a coauthor of the Ng publication. The Declaration of Dr. Ng states that the Ng publication describes the work of Dr. Ng, Jose A. Gavira, Juan M. Garcia-Ruiz, Greg Jenkins, and Mark Wells and includes subject matter described and claimed in the '499 Application.

In paragraph 3, the Declaration of Dr. Ng states that although Greg Jenkins and Mark Wells are not coauthors, the Ng publication nevertheless describes their work and that they are coinventors of the subject matter described in the Ng publication. As noted in the Declaration, they were not included as coauthors of the Ng publication because the Ng publication published in a journal that is primarily directed to the biological sciences, which is outside of Greg Jenkins and Mark Wells field of endeavor. Thus, the Ng publication also describes the work of coinventors Greg Jenkins and Mark Wells.

The Declaration of Dr. Ng establishes that cited reference describes Applicants' own work. Thus, it is respectfully submitted that the Ng publication cannot be considered prior art under 35 U.S.C. § 102(a), and therefore the rejections under 35 U.S.C. 102(a) and 103(a) have been overcome.

The Declaration of Dr. Ng also establishes that the Ng publication also describes the work of Greg Jenkins, and Mark Wells, and therefore are also coinventors of subject matter described and claimed in the '499 Application.

Appl. No.: 10/651,499
Reply dated 02/07/2006
Reply to Office action of 12/07/2006

In view of the remarks made above, Applicant submits that the pending Claims are in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

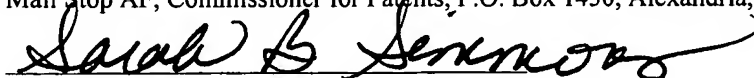


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Sarah B. Simmons